IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7340 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KUMARI MANISHA KANUBHAI

Versus

GUJARAT SECONDARY EDN. BOARD BARODA

Appearance:

MR BIPIN P JASANI for Petitioner

MR AD OZA for Respondent No. 1

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 17/02/2001

ORAL JUDGEMENT

1. The petitioner who had appeared at the Secondary School Examination which was held in March 1993 and was declared fail, preferred this petition for a direction on the respondent to produce her answer book in the subject

of Mathematics and to reassess the same.

2. Pursuant to the directions given on 31/3/1995 requiring the respondent to keep the answer book of the petitioner ready, the learned counsel for the respondent has shown the answer book in question. On verifying the answer book it appears that there is no mistake in the total which is 17 (seventeen) marks out of 100. Each question appears to have been duly examined and the examiner has put marks. The petitioner has got three marks for question no. I, zero for question no. II, five for question no. III, two for question no. IV, zero for question no. V, zero for question no. VI and five for question no. VIII, i.e. 17. There appears to be no mistake in the counting of marks.

3. There is no question of re-assessment of the answer book because as per the settled legal position when the regulations do not provide for re-assessment of answer book, no student can claim it and the Court of Law cannot perform the role of Legislature and create such a right as Legislature may do where there is none (see Rajendra R. Dave v/s. Gujarat Secondary Education Board reported in XX (2) G.L.R. 318, Kumari Priti M. Dalal v/s. Gujarat Secondary Education Board reported in XXI (2) G.L.R. 296, Parekh Salonee v/s. Gujarat Secondary Education Board reported in 197 (2) G.L.H. 942 and Gautambhai Govindlal Bhatt v/s. Gujarat Secondary Education Board reported in 2001 (1) G.L.R. p. 211). Therefore, the prayer for re-assessment of the answer book is wholly misconceived. The original answer book is duly returned to the learned counsel for the Board after perusal.

4. In the above view of the matter, there is no substance in this petition and it is rejected. Rule is discharged with no order as to costs.

[R.K. ABICHANDANI, J.]

* Pansala.